

# EXHIBIT 1

Wednesday, March 25, 2020 at 13:13:35 Eastern Daylight Time

**Subject:** Re: Activity in Case 1:19-cv-00099-KLL Berger v. National Board of Medical Examiners Order on Motion for Preliminary Injunction

**Date:** Tuesday, September 3, 2019 at 6:00:22 PM Eastern Daylight Time

**From:** Chuck Weiner

**To:** Burgoyne, Robert (Perkins Coie)

**CC:** August Janszen, Brendan Berger

**Attachments:** 2019-02-11 Website ECFMG CK Permit Request April to June 2019 with Accommodations.pdf, 2019-02-11 Website ECFMG CK Permit Request April to June 2019 with Accommodations Payment Confirmation.pdf, 2019-02-11 Email ECFMG CK Permit Request Submitted and Paid for Online.pdf, 2019-03-04 Email ECFMG CK Permit Verification of Student Status Completed[3].pdf, image001.png

This is to follow up on my prior e-mail and phone call today. Mr. Berger has not received any confirmation or letter from NBME or ECFMG regarding his accommodations or his scheduling permit. Mr. Berger has complied on his end with the registration requirements back in February 2019. Attached is a copy of his Application Summary, confirmation of payment, confirmation of receipt of application, and confirmation that his application has been processed (noting that his permit is on hold pending his accommodations request).

Mr. Berger has complied with the requisite portions of the registration process (see

<https://www.ecfm.org/2020ib/2020ib.pdf>

pp. 30-34). We are waiting for NBME to comply with Judge Litkovitz's Preliminary Injunction Order enjoining NBME to provide appropriate accommodations under the ADA for the USMLE Step 2 CK "at the earliest possible date", which shall include 100% extended time over two testing days, extra break time, a distraction limited testing environment and reporting the results of the accommodated test.

We expect that we will receive confirmation of the accommodations, reporting the accommodations to ECFMG and any other measures that must be taken to comply with Judge Litkovitz's order with all due haste.

Thank you for your attention to this matter.



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**From:** "Burgoyne, Robert (Perkins Coie)" <RBurgoyne@perkinscoie.com>

**Date:** Tuesday, August 27, 2019 at 4:07 PM

**To:** Chuck Weiner <[charles@charlesweinerlaw.com](mailto:charles@charlesweinerlaw.com)>

**Subject:** Re: Activity in Case 1:19-cv-00099-KLL Berger v. National Board of Medical Examiners Order on Motion for Preliminary Injunction

Will call you soon to coordinate logistics. Congratulations on ruling. Nice work.

Sent from my iPhone

On Aug 27, 2019, at 3:29 PM, Chuck Weiner <[charles@charlesweinerlaw.com](mailto:charles@charlesweinerlaw.com)> wrote:

Bob:

As I previously indicated, you put on a very good case and I appreciate your professionalism and courtesies during the hearing. Nevertheless, under the court's order, he is entitled to accommodations.

Kindly let me know when the NBME enters the accommodations in their system and issues a letter so that Mr. Berger can schedule his examination and obtain the necessary certification from the ECFMG.

Regards,

<image001.png>

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**From:** <[cmecfhelpdesk@ohsd.uscourts.gov](mailto:cmecfhelpdesk@ohsd.uscourts.gov)>

**Date:** Tuesday, August 27, 2019 at 9:45 AM

**To:** <[ecf.notification@ohsd.uscourts.gov](mailto:ecf.notification@ohsd.uscourts.gov)>

**Subject:** Activity in Case 1:19-cv-00099-KLL Berger v. National Board of Medical Examiners  
Order on Motion for Preliminary Injunction

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U.S. District Court

Southern District of Ohio

**Notice of Electronic Filing**

The following transaction was entered on 8/27/2019 at 9:43 AM EDT and filed on 8/27/2019

**Case Name:** Berger v. National Board of Medical Examiners

**Case Number:** [1:19-cv-00099-KLL](#)

**Filer:**

**Document Number:** [37](#)

**Docket Text:**

**ORDER granting plaintiff's [20] Motion for Preliminary Injunction and Orders that defendant is enjoined to provide appropriate accommodations under the ADA to plaintiff for the US Medical Licensing Exam Step 2 CK at the earliest possible date. The appropriate accommodations, which shall be provided by the NBME is double (100%) extended time over two days of testing, extra break time, and a distraction limited testing environment. NBME shall score and report the results of the accommodated USMLE Step 2 CK. Consistent with this order, there is no requirement of a bond. This Order is effective upon entry. Signed by Magistrate Judge Karen L. Litkovitz on 8/27/2019. (art)**

**1:19-cv-00099-KLL Notice has been electronically mailed to:**

August Thomas Janszen [atjanszen@janszenlaw.com](mailto:atjanszen@janszenlaw.com), [mdklein@janszenlaw.com](mailto:mdklein@janszenlaw.com)

Robert A. Burgoyne [rburgoyne@perkinscoie.com](mailto:rburgoyne@perkinscoie.com)

Erin Dwyer French [edfrench@vorys.com](mailto:edfrench@vorys.com), [cariehemann@vorys.com](mailto:cariehemann@vorys.com)

Brandon Michael White [bmwhite@perkinscoie.com](mailto:bmwhite@perkinscoie.com)

Charles Weiner [charles@charlesweinerlaw.com](mailto:charles@charlesweinerlaw.com)

**1:19-cv-00099-KLL Notice has been delivered by other means to:**

The following document(s) are associated with this transaction:

**Document description:**Main Document

**Original filename:**n/a

**Electronic document Stamp:**

[STAMP dcecfStamp\_ID=1040326259 [Date=8/27/2019] [FileNumber=6764103-0]  
] [2e16a646b1f9690ba82071dc877ad0f58811931f10d2d6b8afa14541ce4f40e3379  
553239705dd567a654247dccdf5983ff59af5dc2065f5dd40b3247390eb7d]]

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